

# Family Law Act 1975

## Notice of Rights

Order 38 rule 38(2) of the Family Law Act provides for a Notice of Rights which must be served on a client before a solicitor can commence proceedings to recover costs in Family Law matters.

The new form of notice appears below:

Family Law Act 1975

Order 38 rule 38

Your solicitor must give you this Notice of Rights before he or she can legally recover costs against you for work done in your proceedings under the Family Law Act 1975.

**NOTICE OF RIGHTS**

(Order 38 rule 38(2))

Approved by the Principal Registrar.

If your solicitor's account is not a detailed account, you have a right to request the solicitor to give you a detailed account.

Whether the account is detailed or not, you have a right to dispute the account or any part of the account.

**ACCOUNTS AND TAXATION**  
Requesting a Detailed Account

1. If your solicitor has given you an account for costs which is not detailed, you may ask him or her to give you a detailed account for the work done and disbursements incurred in your proceedings.

2. You must make your request not later than 28 days after your solicitor gives you either the account for costs of the Notice of Rights, whichever is the later.

**Disputing an Account**

3. If you wish to dispute an account (whether detailed or not), you must file a Notice of Disputing Costs (Form 57) in the Court and on the same day serve a copy on the solicitor.

4. You must file the Notice Disputing Costs not later than 28 days after your solicitor gives you either an account or the Notice of Rights, whichever is the later.

**Solicitors Bill of Costs**

5. If you dispute an account by

filing a Notice Disputing Costs, your solicitor must then file in the Court a bill of costs (an itemised account set out in a form suitable for assessment by an officer of the Court) in respect of the costs and give you a copy of the bill.

6. Your solicitor must do this not later than 28 days after you have served the Notice Disputing Costs on your solicitor.

**Taxation of Bill of Costs**

7. If you have filed a Notice Disputing Costs, the Court will arrange for an officer of the Court to conduct a taxation hearing in which the bill of costs is examined. At the end of the hearing the taxing officer assesses the proper amount to be paid by you to the solicitor. If you are unsuccessful in disputing the costs you may be required to pay the solicitor's costs of the taxation.

**Recovery of Costs by Solicitor**

8. If you dispute an account for costs in accordance with the procedures prescribed under the Family Law Act 1975, the solicitor cannot sue you for those costs unless your dispute has been dealt with by the Court or you have withdrawn it.

9. Your solicitor may amend the bill of costs at any time before the commencement of the hearing for the taxation of the costs.

**GENERAL**

10. Your rights to request a detailed account and to dispute the account or any part of it continue even if you have already paid the account or part of it.

11. Your rights may be different if you entered into a written costs agreement with your solicitor.

12. If you want more information in relation to the procedure for disputing a solicitor's account, you may phone any registry of the Family Court of Australia. If you want more information on your legal rights or obligations, you should consult the solicitor of your choice.

## NT REP REQUIRED

The Property Group is the largest group in the General Practice Section of the Law Council of Australia. At present its National Committee has representatives from every state and territory of Australia.

Due to the impending resignation of the current Northern Territory member a vacancy will exist for a replacement. Expressions of interest are sought from practitioners who specialise in property law in the Northern Territory.

The Property Group's National Committee meets quarterly. Three meetings per year are held by teleconference and the fourth meeting is a face to face meeting. The Property Group deals with items of national interest to property lawyers.

Those who are interested in putting their names forward or who require further information should contact:

The Section Administrator  
Anne Craig GPO Box 1989 Canberra  
ACT 2601 DX 5719 Canberra  
Tel: 06 2473788 Fax: 06 2480639

## SA AGENCY WORK

**GROPE HAMILTON**, a city-based firm, is available to undertake agency work in most litigious and non-litigious areas.

Contact Mark Hamilton,  
ph 08 2324767bh 2673772ah  
or fax 08 2325045  
1st Floor, ADC Building  
83 Pirie Street  
Adelaide SA 5000

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